IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 19290 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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AMAL LTD - Petitioner(s)

Versus

AMAL EMPLOYEES UNION & 1 - Respondent(s)

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Appearance :

NANAVATI ASSOCIATES for Petitioner(s) : 1,
MR TR MISHRA for Respondent(s) : 1,
MR PRADIP BHATE AGP for Respondent (s): 2,

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 19/10/2005

ORAL JUDGMENT

1. Rule. Learned advocate Mr. T.R.Mishra waives service of rule on behalf of respondent no.1 and learned AGP Mr. Pradip Bhate for respondent no.2. At the joint request of learned advocates appearing for the parties,

the petition is taken up for final disposal today.

2. In the present petition, the petitioner has made two fold prayers. The petitioner challenges an order dated 29th September, 2004 by which the Assistant Labour Commissioner was pleased to refer the dispute regarding the legality of the closure of the establishment w.e.f. 31st July, 2004 for its adjudication to Labour Court, Valsad. The petitioner has also challenged the orders dated 13/12/2004 and 5/5/2005 passed by Labour Court, Valsad, in such reference proceedings by virtue of which the petitioner is prevented from disposing of the plant and machinery of the petitioner company.

3. After some discussions at the bar, it was agreed that petitioner be permitted to dispose of the plant and machinery provided that the petitioner deposits a sum of Rs. 15 lakhs before the Labour Court within a period of two weeks from today. It was jointly suggested that considering the issues involved, the Labour Court also may be requested to expedite the reference proceedings. In view of this formula adopted learned advocate Mr. Nanavati appearing for the petitioner along with Mr. Gandhi submitted that the petitioner would not be pressing the challenge to the order dated 29th September,

2004 by which the dispute came to be referred for adjudication to the Labour Court and would reserve the liberty to raise such a contention before the appropriate forum.

4. In view of this concessions, it is directed that the petitioner shall deposit a sum of Rs. 15 lakhs before the Labour Court, Valsad within a period of two weeks from today. Upon the petitioner depositing the said amount, the petitioner shall have a liberty to dispose of the plant and machinery. The interim orders dated 13/12/04 and 5/5/05 passed by Labour Court stand modified accordingly. Question of legality of the order of reference is not being decided in this petition and it will be open for the petitioner to raise the same at a appropriate stage. The amount to be deposited by the petitioner shall be regulated as per the final order that may be passed by the Labour Court in reference proceedings. Labour Court is requested to expedite the reference and dispose of the same as expeditiously as possible and preferably by 30th June, 2006. With these directions and observations, the petition is disposed of. Rule is made absolute to the limited extent. No order as to costs.

(Akil Kureshi, J.)

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